

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JIVONNIE JONES,

Plaintiff,

vs.

C. JOHNSON and DYE,

Defendants.

Civil Action No.
08-CV-15258

HON. BERNARD A. FRIEDMAN

ORDER ACCEPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Magistrate Charles E. Binder has submitted a Report and Recommendation ("R&R"), in which he recommends that the court grant defendants' motion for summary judgment. Plaintiff has filed objections to the R&R. Having reviewed the motion, plaintiff's response, the R&R and plaintiff's objections, the court is convinced that the magistrate judge has analyzed the facts and legal issues correctly. Defendants are entitled to summary judgment because there is no genuine issue of fact as to whether plaintiff's Eighth Amendment rights were violated on either of the occasions alleged in the complaint. Plaintiff admits that on both occasions he was "holding his food slot hostage" by placing his arm in the slot to prevent it from being closed, which was a clear violation of prison policy. The force used by defendants to remove plaintiff's arm and close the slot did not violate any clearly established constitutional standards. As the magistrate judge noted, the medical evidence showed nothing wrong with plaintiff's arm following the first incident, and plaintiff did not seek medical attention following the second incident. On this record, there is no genuine issue as to whether the force used by defendants was constitutionally excessive. Accordingly,

IT IS ORDERED that Magistrate Judge Binder's R&R is accepted and adopted as the findings and conclusions of the court.

IT IS FURTHER ORDERED that defendants' motion for summary judgment [docket entry 14] is granted.

S/Bernard A. Friedman_____
BERNARD A. FRIEDMAN
SENIOR UNITED STATES DISTRICT JUDGE

Dated: May 12, 2009
Detroit, Michigan

I hereby certify that a copy of the foregoing document was served upon counsel of record by electronic and/or first-class mail.

S/Carol Mullins
Case Manager